



Organising, supporting and negotiating for EU workers

UNISON branch guidance

Introduction

Since the UK EU referendum result in June 2016, EU workers and their families are worried about their long-term life in post-Brexit UK. This is an important issue because the current status of EU citizens in the UK is based on EU treaty rights, something that will cease to apply from the first day of the UK exiting the EU in March 2019. Up until then the government has said there will be no change in their status or right to stay and work.

In May 2017 the EU¹ said, because of the number of people directly affected and the seriousness of the consequences of the withdrawal for them, it would prioritise seeking an agreement on the status and rights of the three million EU citizens and their families in the UK and of the 1.2 million UK citizens and their families in the 27 EU member states.

This is a guide to help UNISON activists assist UNISON members from the EU.

What is UNISON's campaign to organise, support and negotiate for EU workers?

EU workers in the UK make a valuable contribution to public services, particularly in health and social care. Current estimates of EU nationals working in key public services are:

- 58,000 in the NHS
- 90,000 (7%) in adult social care
- one fifth of academic staff at UK universities are from a country in the EU
- 12,490 non-academic staff working at UK universities.

UNISON has an estimated 70,000 EU members. Currently both public service employers and employees are uncertain about what the impact of the UK decision to leave the EU will be.

UNISON is campaigning for the immediate and unilateral 'right to remain' for existing EU workers to stop this uncertainty and the anxiety this causes. This can have a negative effect on morale, motivation, wellbeing and retention - which could impact on the quality of care and support delivered.

The UK government can quickly confirm the right to remain for EU nationals on its own before the EU Exit negotiations to end that uncertainty for EU workers who currently work in the UK and their families. This will also remove the risk of staff leaving unnecessarily.

UNISON has already raised its concerns with government about existing EU citizens and workers' rights and future EU migration, provided evidence to both Lords and Parliamentary select committees, made representations to cross party groups of MPs and MEPs and worked jointly with key alliances such as the '3 million', the Cavendish Coalition and Higher Education networks. The issue has also been raised with the Scottish, Welsh and Northern Ireland governments.

¹ https://ec.europa.eu/info/sites/info/files/annex-recommendation-uk-eu-negotiations_3-may-2017_en.pdf?_cdosy1_=3z76jLQmPfIN3dToctt3Lt6XGW0wSRLhsnaaGaPSNGWAes6ZWuCF7dRVW7Z13uJJCxauzrg6B7UH9yzKuKRgJD52K2dJv8YnXBUupmuXQ9GciQun5brMMJd7OIZHuXK

In February UNISON held a joint successful parliamentary event where cross party MPs and Lords pledged to support UNISON's call for the unilateral 'Right to Remain' for EU citizens in the UK. It forced the government to publish a letter of support for EU citizens in the UK.

What are the key campaign issues and concerns for UNISON?

- 1. Unless EU workers' rights and new EU migration is properly managed, the EU exit will only exacerbate the current recruitment crisis in public services and the NHS, with potentially disastrous repercussions for patient safety.**
 - The impending exit from the EU will affect the supply of nurses to the NHS: figures show a reduction of more than 90% in the number of nurses from the EU registering with the Nursing and Midwifery Council since the referendum vote.
 - Following the government's decision to abolish bursaries for healthcare students in there has been a significant reduction of 23% of nursing students applications in England (February 2017).
- 2. The government must ensure that the EU exit agreement delivers a sustainable UK workforce supply. It is clear that for the health and social care labour market sector to function effectively there must be commitment from the government to:**
 - Immediately confirm the right to remain in the UK for EU nationals currently working in public services in the UK.
 - Provide funding and resources to recruit, train, retain and grow a domestic workforce to meet any shortfall from the loss of EU workers.
 - The annual and periodic 'churn' of the workforce particularly at the 'low skilled' end of the health and social care services is higher from all workers (UK, EU and non EU). Addressing career progression and skilling care workers at entry level can help reduce churn and stabilise the workforce supply. Will the government put in additional funds for this?
 - Introduce a migration system, working alongside our domestic workforce strategy, which enables the UK to continue to be able to attract talented professionals to help the public sector provide the best health, local government, social care and higher education possible.
 - Ensure a continued pipeline of international staff (both EU and non EU) to meet the estimated shortfalls in the skills and labour needed for UK public services.
- 3. The impact of any reductions in migration to UK public services and plans for future EU migration need to be carefully managed and consulted on.**
 - The current evidence, even without Brexit, is that there is a sheer inability to staff services adequately in the short and medium term without recourse to recruitment from the EU and non EU countries.
 - The current EU principle of free movement of people provides individuals and employers the certainty about the right to enter the UK to work, without costly visas and application and it is not time-limited making it attractive to both EU workers and recruiting employers.
 - In contrast, recruitment from non - EU countries carries uncertainty due to the limited and capped number of visas for skilled work available every year. Visas are also time-limited and the administration for individual and employer to secure sponsorship and visa is often lengthy and expensive.

- It is not clear how low skilled workers will be capped or what the cost to employers to replace these workers will be.
- Employment modelling to look at skills needs and developments and workforce gaps there are. For example what proportion of agency and locum staff are currently EU in the NHS? After the UK leaves the EU how will we know if the existing numbers are going to increase or decrease?
- The government's new migration proposals will be a key determinant. Costs may go up or down as a result of the governments' new proposals. Will the government factor in any additional costs, resulting from EU restrictions to working, in its new migrations proposals and funding?

4. UK workers' rights need to keep parity in post Brexit UK to benefit UK workers and attract necessary EU workers to the UK.

- Without arrangements to ensure that we do not seek to compete with our European partners by reducing workers' rights and protections, the government's claim of 'doing whatever we have to do' will quickly become 'cutting workers' rights', or failing to keep pace with improved rights or protections bought in at an EU level, setting off a damaging race to the bottom.
- Potential future EU rights under discussion include:
 - Better protections for posted workers, ensuring they receive equal treatment and in particular the going rate for the job when working in another country. These measures will ensure employers cannot use migrant workers to undercut and drive down pay and conditions.
 - Improved rights for working parents, including enhanced rights to paternity and parental leave and increased access to flexible working arrangements.
 - The European pillar of social rights, which could provide enhanced protection in areas such as equal opportunities, access to the labour market, fair working conditions and adequate and sustainable social protection.
 - Improved protections for those working in insecure work, including those on zero hours contracts, in agency work, or working for 'platform companies'.
- To ensure that the UK does not seek to compete in the post-Brexit world by downgrading workers' rights, the government should guarantee that any future trade deal with the EU will include a commitment that the UK will maintain a level playing field with EU wide employment rights, and ensure that this commitment is both transparent and enforceable.
- During any transitional period before our final relationship with the EU is determined, the government should state that the UK will continue to comply with EU employment law, providing certainty to both workers and businesses.

5. Since the EU referendum direct, indirect and casual anecdotal racism in the workplace and in communities has increased for all migrant workers. The government must tackle the rise in both racism and xenophobia in workplaces and communities.

- Support communities to come together.
- Ensure thorough investigation and enforcement of all breaches of employment rights and in particular take action to tackle racism and xenophobia by employers and offer free guidance and support for migrant workers.

- Support greater recognition for the role that unions play in tackling exploitation, racism and promoting equalities.
 - Boost funding for skills training, including basic skills like literacy and numeracy and English language skills for migrants.
 - Increase funding for the statutory enforcement bodies which enforce workers' rights, for example the HMRC National Minimum Wage enforcement team and to the Gangmasters and Labour Abuse Authority (GLAA) so they are adequately resourced.
 - Extend the GLAA's licensing remit to cover new sectors such as social care, construction and hospitality.
 - Abolish employment tribunal fees in Great Britain which are prohibitive and restrict access to justice.
 - Build more decent homes for low skilled families and crack down on rogue landlords.
 - Increase investment in public services in areas where migration has had a significant impact.
 - Tackle insecure forms of work such as zero hours contracts.
 - Establish ways to apply pay agreements negotiated by unions to contracted out services.
- 6. The government must consult and negotiate transparently with the EU in phase one of the negotiations which will begin in June 2017.**



The EU, as part of its phase one negotiations, has said that it will seek to include the following in the new agreement.

- Citizen rights to be protected as directly enforceable, non discriminatory vested rights for the lifetime of those concerned.
- The right to acquire permanent residence after a continuous period of five years of legal residence.
- The rights to be reciprocal, based on the principle of equal treatment among EU27 citizens and equal treatment of EU27 citizens as compared to United Kingdom citizens.
- Safeguards of both the status and rights at the withdrawal date and also those that citizens will be entitled to at a later date. For example rights related to old age pensions.
- The protection, both in the UK and in the EU27, before the withdrawal date, of recognised diplomas, certificates and other evidence of formal qualification obtained in any of the union member states and after the withdrawal date.
- Arrangements relating to procedures for recognition, which are ongoing on the withdrawal date, to ensure that diplomas, certificates or other evidence of formal qualification obtained in a third country, and recognised in any of the union member states before the withdrawal date in accordance with union rules applicable before that date, continue to be recognised.
- Citizens to be covered should include both economically active, ie workers and self-employed, and inactive persons, who have resided in the UK or EU27 before the withdrawal date and their family members who accompany or join them at any point in time before or after the withdrawal date. In addition, the personal scope should include persons such as frontier workers.
- The protection of residency rights in relation to (i) the right of permanent residence after a continuous period of five years of legal residence and the rules relating to those rights and any document to be issued in relation to the residence rights (for example, registration certificates, residence cards or certifying documents) should have a declaratory nature and be issued under a simple and swift procedure either free of charge or for a charge not exceeding that imposed on nationals for the issuing of similar documents (ii) the coordination of social security systems and rights to aggregation, export of benefits, and principle of single applicable law (iii) Freedom of movement for workers within the Union, e.g. access to the labour market, to pursue an activity, social and tax advantages, training, housing, collective rights (iv) the right to take up and pursue self-employment.

These rights must continue to be treated as *indivisible* and must not be diluted or reduced in the future by this, or a future, UK government. UNISON believes that these rights must not only be guaranteed in their existing state but, wherever appropriate, improved on, such as the right to vote.

For UNISON EU members some of these benefits would guarantee:

- Right to equal treatment with any UK citizen: this is the second principle attached to the right of residence. Ultimately it allows an EU citizen to be treated as a full resident on an equal footing with any other UK citizen.
- Right to work and enjoy the same conditions and employment laws as British citizens.
- Mutual recognition of professional qualifications already currently established.
- Right to study and to enjoy the mutual recognition of degrees from another EU member state currently under the Bologna Process/European Higher Education

Area (EHEA), of which the UK is a member and which allows quality assurance of degrees between member nations.

- Right to access the NHS and social care provisions on the same footing as UK citizens: no imposition of private or comprehensive sickness insurance.
- Right to rent or buy property, have a bank account, and arrange bank loans.
- Right to draw welfare benefits: to be treated on par with any British citizen.
- Right of residence for non-economically active citizens, including people with long term health conditions and disabilities, and pensioners.
- Right to enjoy aggregated pensions so that pension payments in another EU country count towards an overall pension in the UK and pensions remain transferable with 'passporting' arrangements.
- Right to vote in local elections.

What branches can do to promote UNISON's organising, supporting and negotiating agenda for EU workers

Get members involved



If we all work together our voice becomes more powerful and we have a much better chance of ending the current uncertainty caused by leaving the EU. The best source of up to date information on UNISON's 'right to remain' campaign can be found on the UNISON *EU Members Network Facebook* page facebook.com/groups/UNISONEUMembers/ Join the Facebook page and promote it as widely as possible with branch members. This will ensure that our members are being notified about actions they can get involved in and can get updated on UNISON's campaigning.

Follow what we are posting and tweeting, find out what actions colleagues can take as well as sharing information on what activities we would like people to get involved in. We need as many members as possible to take part.

Organise and support EU members to get active in their branch, workplace and in the community

- **Talk about their issues** – and the concerns UNISON is raising about EU citizens rights. Talk about the valuable contribution they make to the UK's public services. Find out if they have any work related issues that extend into their day-to-day life due to the level of uncertainty about their rights and their future in the UK as workers and citizens.
- **Link EU migrants with each other** – workers, especially migrants, sometimes work with people who have a shared experience or cultural background. As migrant workers themselves they are well placed to help the union recruit other migrant members. Always ask them to work together and support each other and ask for volunteers to become a group leader or workplace contact. This is the beginning of collective work and potential leadership.
- **Campaigning around migrant issues** – our previous migrant-related campaigns were successful because of the participation of migrant workers themselves. It is always important to give workers information and encourage participation but it is also crucial to regularly ask them if they have any issues at work, eg bullying, discrimination, harassment etc. In addition to the 'Right to Remain' campaign, our other national campaigns include the removal of the £35K pa requirement for indefinite leave to remain for non EU overseas workers and ensuring that nursing posts are not removed from the shortage occupation list. The strategic organising unit at UNISON Centre can help with this.
- **Participation in the branch** – workplace contacts should be supported, mentored and encouraged to join branch officers' discussions so they feel part of the union. Include them in your branch planning and in activities that will help them understand the union's overall work. Training should be offered in the form of specific training for migrants or the normal training as stewards/branch officers. Learning and organising services (LAOS) and regional education officers (REOs) have good courses for migrants.
- **Secure access to the workers** – some EU workers, such as nurses, are recruited 'en bloc' at the same time. Access to these cohorts can be done through negotiation with the employer. UNISON has a strong argument that some workers are vulnerable and need support and that it is in everyone's interest, including the employer's, that they succeed in the UK migration process. UNISON can explain what we are doing to help these workers and what we can do to work with employers and trusts to ensure that these key workers don't leave the UK after Brexit. If we are not able to gain access to these workers at the work place then another route may be to make links with community organisations for specific countries of origin, including Poland, Spain, Portugal, and Greece.
- **Addressing Racism and Xenophobia in the workplace** – the toxic debate around migration and the continuing vilification of migrants in the UK, especially after the EU referendum, has unleashed racism and xenophobia in the workplace. Branch officers can be more pro-active in addressing this. Social, educational and cultural events, along with other opportunities for positive interactions with members from different cultures, should be included in all the activities planned in the branch. Ask a group of migrants to lead on these activities and support them.

Invite people to tell their stories

Use these case studies – and invite members in your branch to tell their story and share these stories in the branch.

Joan Pons Laplana from East Coast Health branch



My name is Joan Pons Laplana and I am a transformational nurse at the James Paget Hospital in Norwich. I came to the UK from Spain 15 years ago to fulfil my dream of being a nurse. I have always been involved in the workplace and until recently an active member of the Royal College of Nurses (RCN). After the referendum result I was looking for somewhere to help with EU/EEA nationals' right to remain and contacted all the unions in my workplace. UNISON was the only union that responded to my needs. I then started becoming involved and decided to take part in the mass lobby of parliament in February where I met my local MP, Toby Perkins from Chesterfield.

Since then I started sharing my story with the media to highlight how our uncertain future could affect my profession and our NHS as a whole. I am now getting involved within my local branch and will be undertaking my stewards training in July 2017.

Cathy Roblin from Southampton Local Government branch



Being politically engaged has been a feature of my life since a young age so it was only natural that as a public sector worker I joined UNISON. I am a French national, a social worker and single mother. Being active was difficult as the demands of my work and those of raising two young children took most of my time. As my children grew up giving me more personal time I was approached by my branch to be seconded to a convenor post which I accepted. This has given me the opportunity to become more involved in the democratic structures of our region and I now sit on a number of committees as well as being the current chair of the South East Regional Women's Committee.

The outcome of the referendum was a shock. The result left us dumbfounded and angry. Having settled in England almost 42 years ago I never thought that my life here could come to an end and my future now holds a lot of uncertainty. Both my children hold French passports although born in the UK. What will happen to them? Will I still be able to claim my state pension when I retire? Will I be able to access NHS care if I require it? Will I still feel safe walking through the streets?

As a best interest assessor I visit many of our local care homes and have yet to find one employing only British workers. Nurses and care staff come from Spain, Italy, Portugal, Poland and other EU countries and without them these homes would close. As one of our regional delegates at women's conference I was concerned that our already precarious care system would be further under threat if EU citizens working in the sector were forced to leave or simply chose to go back to their own countries because life here has become too unbearable. So I wrote a motion highlighting the importance of guaranteeing our rights and protecting EU women working in that sector.

This was well received and fully supported. UNISON has a long tradition of defending foreign workers' rights, as activists we are used to advocating on behalf of our members when they are victims of discrimination. As Brexit negotiations develop, the threats to the public sector will deepen with more severe cuts leading to loss of jobs and, the backlash against foreign workers will intensify. Our branches will have members whose lives in the UK will be dictated by how this process unfolds. We owe it to our members to take their concerns seriously and listen to them. We might not have all the answers but we need to keep the communication door open.

Work with local politicians

Hold public meetings and invite your regional and local MEPs, MP, mayor, MSP, assembly members and local councillors to discuss the issues and ask them to meet EU and non EU migrant members.



Stand together in UNISON

The Brexit vote in the EU referendum has given the green light to a wave of xenophobia, bigotry and racism. Denigrating or discriminating against someone on the grounds of their nationality is race discrimination. UNISON has a policy of zero tolerance to racism and we have produced specific materials to give advice on what you can do if you either experience or witness race discrimination.

In UNISON, we speak up against prejudice in the workplace – and beyond. However, it can be hard to know exactly what to say, especially on contentious issues. Use UNISON resources below which aim to help start a dialogue rather than a confrontation and build the essential building blocks of trust and respect in the workplace. Ask your organising staff, learning and organising services (LAOS) and regional education officers (REOs) to help you.

Negotiate with employers on how they can also support EU members

Ask employers if they can support the branch and EU migrant workers by:

- a) Giving paid time off for employees to apply for residency and legal advice
- b) Offering employees interest free loans for application costs of residency
- c) Promoting the JCWI legal guidance and telephone helpline with employees and managers (funded by UNISON – see resources below)
- d) Assisting in combating racism in the workplace and reviewing their own anti – discrimination policies and practices and offering renewed training.

Use UNISON resources to support branch work

The following resources are available to members of the union, so please do tell members about them.

UNISON Migrants website

unison.org.uk/get-help/knowledge/vulnerable-workers/migrant-workers/

UNISON EU citizens face book

A dedicated Face book group for UNISON members who are EU citizens to talk to each other at [facebook.com/groups/UNISONEUMembers/](https://www.facebook.com/groups/UNISONEUMembers/). This is a closed group, and members will need to ask to join it.

UNISON's free legal guidance and helpline

Your right to remain unison.org.uk/content/uploads/2016/09/24055.pdf

This publication has been produced by UNISON and the Joint Council for the Welfare of Immigrants (JCWI) and offers help and guidance to members and their family about what they can do to safeguard their position here. The Joint Council for the Welfare of Immigrants (JCWI) help members to answer important questions like:

- a. Should I apply for permanent leave to remain?
- b. What about applying for British Citizenship?

Free legal consultation helpline 0800 0 857 857

UNISON members are entitled to a free telephone consultation with a JCWI lawyer. Members can call free on 0800 0 857 857 and arrange a free consultation – these are available on Tuesdays only. UNISON will then arrange for JCWI to call you back on the next available Tuesday.

Use UNISON leaflets to challenge racism and prejudice in the workplace

In UNISON we speak up against racism in the workplace – and in the community. However, it can be hard to know exactly what to say, especially on contentious issues. Starting a dialogue rather than confronting someone helps to build trust, respect and solidarity in the

workplace. You can order leaflets, free of charge, from unison.org.uk/onlinecatalogue quoting the stock number of the document you want.

Challenging prejudice – leaflet stock number 3686

Stand together – leaflet stock number 3687

For further information, and materials on organising migrants, please contact:
strategicorganising@unison.co.uk

Useful organisations

You may find it useful to contact the following organisations for further information on EU citizen's rights and campaigns.

The 3millions – facebook.com/the3million/

Mobile EU citizens - www.mobilecitizens.eu - contact Alan Anstead alan@ukren.org or Mariana D'Arcadia eu@migrantsrights.org.uk

Another Europe is Possible – anothereurope.org/

Alliance for Freedom of Movement – forfreemovement.org/

Elected politicians

To contact local councillors, mayors, assembly members, MPs, MSPs and MEPs go to writetothem.com. If you enter your postcode you will automatically receive a list of elected politicians with contact details

writetothem.com/

Keep up to date with UNISON's four priority campaigns in its Exiting the EU campaign, where we are protecting and representing UNISON members' interests in:

1. Employment, health and safety standards and trade union rights
2. Public services and professional standards
3. Trade deals/standards, environmental regulations and public procurement
4. Freedom of movement and right to remain, fighting racism, discrimination and promoting equalities and human rights.

We will be launching more regular news updates after the June 2017 general election so look out for reports, stories, resources and policy developments on the UNISON website, in E-focus, branch circulars and bargaining and negotiating newsletters.

Further information

UNISON's Right to Remain campaign contact Katia Widlak - k.widlak@unison.co.uk on UNISON's Exiting the EU campaign contact Allison Roche a.roche@unison.co.uk

You can also contact Katia or Allison if you want to invite someone from UNISON to address a branch meeting.



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